

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,)	
)	Case No. 2:21-cv-12570
Plaintiff,)	
)	Hon. Gershwin A. Drain
v.)	
)	
JAMES J. KELLY, JR.,)	
)	
Defendant.)	
_____)	

**STIPULATION FOR ORDER OF PRELIMINARY INJUNCTION
AGAINST DEFENDANT JAMES J. KELLY, JR.**

On November 1, 2021, plaintiff United States of America (“United States”) filed a complaint against defendant James J. Kelly, Jr. seeking to reduce to judgment an assessment made against Kelly for his willful failure to report his financial interest in a foreign bank account during 2013, 2014, and 2015, and on November 10, 2021, filed an amended complaint to include a request for repatriation. The amended complaint seeks a judgment for \$872,378.54, plus continuing statutory accruals from October 1, 2021.

This matter is before the Court on the United States’ Motion for Preliminary Injunction Regarding Funds and Assets Owned by James J. Kelly, Jr., EFC No. 6, PageID.108 (“Preliminary Injunction Motion”). On November 2, 2021, the United States filed an *ex parte* motion for a temporary restraining order, which the Court granted the next day. *See* ECF No. 5, PageID.91-107 (“TRO”). The United States

thereafter filed the Preliminary Injunction Motion, ECF No. 6; an Amended Complaint, ECF No. 10; and a Notice of Supplemental Authority, ECF No. 11, PageID.159, all of which have been served on Mr. Kelly. The parties thereafter stipulated to the entry of an extended TRO, through December 1, 2021, which the Court entered on November 16, 2021.

Plaintiff United States of America and Defendant James J. Kelly, Jr., hereby stipulate and agree to the entry of a Preliminary Injunction.

IT IS FURTHER STIPULATED AND AGREED THAT:

1. Defendant James J. Kelly, Jr. agrees that the Court has subject matter jurisdiction and personal jurisdiction over him.
2. Defendant James J. Kelly, Jr. waives the entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure.
3. Defendant James J. Kelly, Jr. agrees that he will consent to the entry of an order of preliminary injunction against him that encompasses the terms of this stipulation, and that said order constitutes a final order of preliminary injunction and waives all rights to seek judicial review or otherwise contest the validity of this Stipulation or this Order.
4. The assets of Defendant James J. Kelly, Jr.'s Bank Alpinum Account ending 1392 shall remain frozen, up to the amount of the judgment sought in this case, \$872,378.54, plus an additional \$103,252.54 representing additional statutory

additions which may accrue, pending the entry of a final judgment in this case and upon further order of the Court. Defendant James J. Kelly, Jr. —as well as anyone acting on his behalf or in concert or participation with him—is enjoined from directly or indirectly encumbering, liquidating, transferring, or otherwise spending or disposing of the assets of Bank Alpinum Account ending 1392, up to that amount, pending entry of final judgment in this case and upon further order of the Court.

5. To ensure the Defendant James J. Kelly, Jr.’s compliance with this order, the Defendant agrees to submit to the Court a quarterly accounting of the funds in the Bank Alpinum Account ending 1392 accompanied by the corresponding bank statements issued by Bank Alpinum, with such accounting to be submitted no later than the 10th (tenth) day following the end of the quarter, with the first report due following the quarter ending December 31, 2021.

6. The parties agree that no provision in this stipulation, or the fact that Defendant James J. Kelly, Jr. is agreeing to it, constitutes an admission by him of any of the allegations set forth by the United States in the amended complaint or in the Preliminary Injunction Motion.

[SIGNATURE PAGE TO FOLLOW]

SO STIPULATED.

For Plaintiff,
United States of America,

/s/ Mary A. Stallings

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IT IS SO ORDERED this 29th day of November, 2021.

s/Gershwin A. Drain
GERSHWIN A. DRAIN
U.S. District Court Judge